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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,468	11/20/2003	Sean F. Wilson	1346	1035

7590

06/02/2004

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EXAMINER

WILSON, LEE D

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,468

Applicant(s)

WILSON, SEAN F.

Examiner

LEE D WILSON

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The following claims lack proper antecedent basis:

i. The preambles of the dependent claims 2-6 recite "A" instead of -- The -- .

b. The following claims are vague, indefinite, confusingly, and awkwardly worded.

ii. "a width . . . pin shaft" In claim 1, lines 15-19. The tool cannot be defined in terms of a workpiece because not all workpieces are the same. The dimension vary and the tool may or may not fit the description given in the claim. Applicant should define the tool in terms of definite structure.

iii. "each other" in claim 2, line 3. The limitations should be positively recited. The term each other do not have proper antecedent basis as well.

iv. "channel increases distally" in claim 6, lines 1&2. Elements being referred to are three dimensional so it is not clear how the distally is being referred too? Width inherently will have some length, is this what the applicant is referring too. The applicant needs to define some reference point with some geometrical terms.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuha (5495651).

Tsuha discloses a tool having a handle (12), an elongated member (14), a forked tip (16) with first (26) and second (30) tongs and a channel (32).

3. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin (DES 256442)

Martin discloses a tool having a handle (fig.1), an elongated member (fig.1), a forked tip (fig.1) with first (fig.1) and second (fig.1) tongs and a channel (fig.1).

4. Claims 1- 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Browne (549895).

Browne discloses a tool having a handle (figs. 1-2), an elongated member (C'), a forked tip (A) with first (a') and second (a') tongs which are bevel toward each other (fig.4) and a channel (a).

In regard to claim 3, the metal material is taught in col.1, lines 49-50.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuha (5495651).

a. Tsuha is discussed above.

b. In regard to claim 4, Tsuha discloses the claimed invention except for channel slightly greater than 9/16 of an inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a channel slightly greater than 9/16 of inch, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

c. In regard to claim 5, Tsuha discloses the claimed invention except for channel with a length that is about three-eighths of inch long. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a channel with a length that is about three-eighths of inch long, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Browne (549895).

d. Browne is discussed above.

e. In regard to claim 4, Browne discloses the claimed invention except for channel slightly greater than 9/16 of an inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a channel slightly greater than 9/16 of inch, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

8. In regard to claim 5, Browne discloses the claimed invention except for channel with a length that is about three-eighths of inch long. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a channel with a length that is about three-eighths of inch long, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peterson and Shere et al disclose an invention.

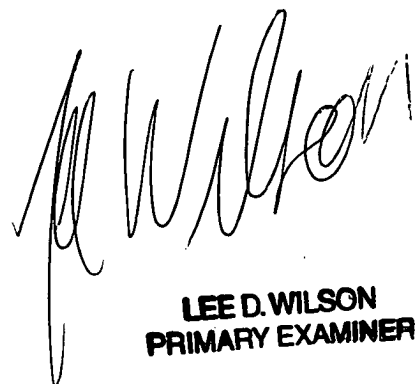
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 703-305-4094. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

May 27, 2004



**LEE D. WILSON
PRIMARY EXAMINER**